

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, January 2, 2007
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM.

PRESENT: Mayor Esteves, Councilmembers Giordano, Gomez and Polanski

ABSENT: Vice Mayor Livengood

CLOSED SESSION

Mayor Esteves publicly stated the Council would immediately convene in Closed Session to discuss the following two issues:

1. Conference with Labor Negotiators for Collective Bargaining: City Negotiator Carmen Valdez with employee groups: International Association of Fire Fighters (IAFF), Milpitas Employees Association (MEA), and Milpitas Supervisors Association (MSA)
2. Conference with Legal Council for existing litigation: City of Milpitas vs. Turner Construction et al, Santa Clara County Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV0084002

The Council convened in Open Session at 7:06 PM, with no announcements.

CLOSED SESSION ANNOUNCEMENT

None

PLEDGE

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance.

INVOCATION

Councilmember Polanski noted the national day of mourning on this date for former President Gerald Ford. She quoted him from two speeches in the 1970s.

MINUTES

MOTION: approve minutes of December 19, 2006 City Council meeting as submitted

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of:
AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

SCHEDULE OF MEETINGS

MOTION: to approve the Schedule of Meetings (Monthly Planner)

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of:
AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

PUBLIC FORUM

Rob Means, 1421 Yellowstone, addressed the issue of global warming.

ANNOUNCEMENTS

City Manager Tom Williams announced that flags were lowered at half-staff throughout the city for 30 days, to commemorate former President Gerald Ford. Also, new promotional City light pole banners would be installed next week throughout the City.

Economic Development Manager Diana Whitecar announced that on Monday, January 8 at 6:00 PM at San Jose Airport Terminal A, members of the Economic Development Commission and the Mayor planned to announce the new Milpitas advertisement billboards at the airport and they planned to distribute Milpitas shopping bags to promote businesses throughout the City.

Councilmember Polanski said Happy New Year to all in Milpitas. She noted Mr. Means' remarks, and felt that would be a good topic for the future strategic planning workshop discussions. She also requested that the City Council receive (via e-mail) all subcommittee meeting minutes.

Councilmember Gomez wished to honor Art Swanson, a vibrant Milpitas community member who died recently, and requested to adjourn the meeting in his memory. The Mayor agreed.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda as amended

City Manager Williams noted staff requested to remove agenda items No. 10 and No. 12, to be brought to the City Council at the next meeting.

Councilmember Gomez requested Item No. 8 be removed from the agenda.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of:
AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Councilmember Giordano requested removal of Item No. 3 from consent.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of:
AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

* 4. Approve 2006-07 Cultural Arts Support Program Grant Change for San Khau Viet CALI

Approved San Khau Viet CALI's revised CASP Grant Budget in the amount of \$1,080, per recommendation of the Milpitas Arts Commission.

* 5. Economic Development Commission's Request for Parking Task Force and Analysis

Approved the concept of appointment of a Task Force to review the City's Parking Ordinance and to make recommendations to amend the ordinance to be more flexible and reflective of the infill challenges facing the Milpitas business community.

* 6. Adopt Ordinance No. 38.770

Waived the second reading and adopted Ordinance No. 38.770 entitled "An Ordinance of the City of Milpitas amending Chapter 10, Title XI of the Milpitas Municipal Code Creating an Institutional "I" Zoning District and Authorizing Farmers' Markets Conditional Uses in the "I" Institutional, "C1" Neighborhood Commercial and "C2" General Commercial Zoning Districts (ZT 2006-6)"

* 7. Adopt Ordinance No. 43.205

Waived the second reading and adopted Ordinance No. 43.205 entitled "An Ordinance of the City Council of the City of Milpitas Amending Chapter 100, Title V of the Milpitas Municipal Code Related to Traffic"

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| * 11. Resolution Granting Initial Acceptance, Project No. 6073 | Adopted Resolution No. 7648 granting initial acceptance of Sewer Deficiency and Structural Correction Program – Open Cut, Project No. 6073, subject to one year warranty period and the reduction of the faithful performance bond to \$65,666. |
| * 13. Agreement for Debris Box | Authorized the City Manager to approve an agreement for a debris box with Beck’s Trucking, subject to approval as to form by the City Attorney. |
| * 14. Encroachment Agreement with Union Pacific Railroad | Approved Encroachment Agreement with Union Pacific Railroad Co., for installation of two streetlights foundation with the railroad’s right-of-way, and authorized the City Manager to execute the agreement, subject to the City Attorney’s approval as to form. |
| * 15. Right-of-Way Agreement with Santa Clara Valley Water District and KB Home | Authorized the City Manager to execute the right-of-way agreement with Santa Clara Valley Water District and KB Home South Bay, Inc. for Project No. 3160, subject to the approval of the City Attorney as to form. |
| * 16. Contract Extension with CSG Consultants, Inc. | Approved an extension of the contract for fire inspection services between the City of Milpitas and CSG Consultants, Inc. for an amount not-to-exceed \$15,000, subject to approval as to form by the City Attorney. |
| * 17. Consulting Agreement between City and School District | Authorized the City Manager to award the contract for the not-to-exceed amount of \$26,812.83 to the Milpitas Unified School District, for 50% of costs for secretarial services for the Youth Service Bureau, subject to the approval of the City Attorney. |

PUBLIC HEARING

- 1. Weed Abatement Hearing and Resolution**
- Fire Marshal Patricia Joki introduced the annual weed abatement program to the City Council. She presented to the Council a list of all parcels in Milpitas on which weeds were declared a nuisance and thus required abatement. She requested the Mayor open the public hearing and the City Council to adopt a resolution (draft included in the agenda packet).

Ms. Joki introduced the following two gentlemen who were present at the meeting to answer any questions: Mr. Greg Van Wassenhove, Agricultural Commissioner of Santa Clara County and Mr. Moe Kumre, Santa Clara County Weed Abatement Coordinator.

Mayor Esteves opened the public hearing, and no comments were heard.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of:

AYES:	4
NOES:	0
ABSENT:	1 (Livengood)

(2) **Motion:** Adopt Resolution No. 7647 directing the Santa Clara County Agricultural Commissioner to abate the nuisance, maintain a cost account, and embody the account in a report and assessment list to the City Council, in accordance with the Milpitas Municipal Code.

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of:

	AYES: 4
	NOES: 0
	ABSENT: 1 (Livengood)

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA 1. CALL TO ORDER** Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 7:23 PM.
- RA 2. ROLL CALL** **PRESENT:** Mayor/Chair Esteves and Agency/Councilmembers Giordano, Gomez, and Polanski
ABSENT: Vice Mayor/Vice Chair Livengood
- RA 3. MEETING MINUTES** Motion: approve the Redevelopment Agency minutes of December 19, 2006, including joint meeting with the City Council, as submitted

Motion/Second: Agency/Councilmember Polanski /Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)
- RA 4. Approval of Agenda and Consent Calendar** Motion: approve the agenda and Agency consent calendar

Motion/Second: Agency/Councilmember Gomez / Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)
- * RA 5. Approve Contract Change Order: San Jose Blue for Reprographic Services for the New Library, Project No. 8162** Authorized staff to approve a contract change order in the amount of \$43,000 to San Jose Blue for Reprographic Services for the new Milpitas Library Project, No. 8162.
- * RA 6. Amendment with Griffith & Associates, and Approve Plans and Bid Proposals for Ball Park Fence Field Extension** Authorized the City Manager to Execute an Agreement Amendment with Griffith & Associates, in the amount of \$5,410, subject to approval as to form by the City Attorney. Also, approved plans and specifications and authorized advertising the project for bid proposals for the Ball Park Fence Field Extension, Project No. 5064.
- RA 7. ADJOURNMENT** Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 7:24 PM.

REPORT OF OFFICERS

- 2. Preschool Program Update** Mayor Esteves asked for a report from staff on the re-opening of the Milpitas Preschool that morning.

City Manager Williams reported that it opened successfully with parents bringing in the youngsters on time today, and staff was working on the response to a question from the personnel contractor about insurance and would resolve it by the end of the week.

Councilmember Polanski asked how many parents came back with their children, or how many made other arrangements. Recreation staff Kathleen Yurchak noted that letters and calls were made to all parents before the holidays, giving parents through the week to notify the City of their children's participation or withdrawal.

Mayor Esteves inquired if the City continued to process employment applications for the preschool position. Staff reported that three recent requests for employment applications for preschool teachers had come in and information was provided.

Human Resources Director Carmen Valdez noted that one completed application was

received last week, and some requests for application materials had come in.

Speakers:

David Matheson, Milpitas resident and preschool parent, reviewed the math on the program from the City website and Milpitas Post information. He did not understand where the money was going for the preschool. A proposal in the Finance Subcommittee to raise the teachers' salaries was heard and approved. The subcommittee noted that \$9-\$12 per hour was too low pay for the professional teachers at Milpitas pre-school, while they were consummate professionals. He urged the City Council to fix this.

Councilmember Gomez commented from the Finance Subcommittee, that it heard the staff's recommendation to increase the salaries of preschool teachers. He reviewed what took place and Ms. Yurchak agreed with his remarks.

The City Manager noted that the temporary agency contracted with the City – California Staffing Services - does not pay the teachers much more than the city's hourly rate and there were overhead costs built in to the hourly fee charged the City.

Councilmember Polanski remarked that the Finance Subcommittee was a body of two members that makes recommendations to the full City Council, which then must vote on action items as a full Council body. The City Council had not taken action on the salary rates for the preschool teachers.

Dick Verna, Smith Way resident, spoke on getting people to come and join this meeting, the ability to give people some sort of health insurance, and what would make it easier to get people to attend. He wished this issue was not kept as a side-burner issue, as it impacted his daughter and grandson.

Councilmember Gomez asked whether it made sense to have more than one City department involved in the hiring process. Human Resources handled all recruitment of all permanent, regular employees, but was not usually involved with temporary hiring. Mr. Gomez noted his preference that the Human Resources department be the lead recruiter for temporary preschool teachers, not the Recreation Services staff.

Mayor Esteves asked for confirmation that the preschool was staffed strictly with City employees as of this date. Staff confirmed it. He wanted to understand the difference between the situation last month and now. City Manager Williams explained that the preschool lost one teacher in September, one in October, and one more to the 1000 hours limit recently (thus three vacancies) with three teachers still on staff. Contracting with the outside agency ensures that there would always be sufficient number of staff on site.

Motion: received status report from staff on the Milpitas Preschool

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

**3. Mayor's Recommendations
to Commissions**

Councilmember Giordano requested this item off the consent calendar for a separate vote. She asked the Mayor and the City Clerk about Alex Galang's application form for the Planning Commission, and she received confirmation that his was turned in the day after the November 29 deadline set by Mayor Esteves.

The following recommendations by the Mayor, on the agenda, were considered:

Citizens Emergency Preparedness Advisory Commission

Appoint Lori Bersabe as a regular member to a term that expires in June 2007.

Appoint Jaime Odena as Alternate No. 1 to a term that expires in June 2007.

Appoint Michelle Celones as Alternate No. 2 to a term that expires in June 2007.

Senior Advisory Commission

Re-appoint Bernice Wrinkle as Alternate No. 2 to a term that expires in December 2008.

Telecommunications Commission

Re-appoint William Lam to a term that expires in January 2009.

Re-appoint Satish Bansal to a term that expires in January 2009.

Re-appoint Roger Shaw as Alternate #1 to a term that expires in January 2009.

Planning Commission

Appoint only Gurdev "Dave" Sandhu to the Planning Commission, to fill the seat that was occupied by Dr. Alex Galang

(1) Motion: to approve the Mayor's recommendations noted above, with only one appointment to the Planning Commission

Mayor Esteves stated he would vote no. Councilmember Polanski stated she would vote yes, if the motion included additionally to support Bill Ferguson for the Planning Commission. No amendment to the motion was entertained.

Motion/Second: Councilmember Giordano/Councilmember Gomez

Motion failed by a vote of:

AYES:	2
NOES:	2
ABSENT:	1 (Livengood)

2) Motion: appoint three Community Emergency Preparedness Advisory Commissioners, as noted

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried by a vote of:

AYES:	4
NOES:	0
ABSENT:	1 (Livengood)

3) Motion: re-appoint Bernice Wrinkle to the Senior Advisory Commission

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried by a vote of:

AYES:	4
NOES:	0
ABSENT:	1 (Livengood)

4) Motion: re-appoint three Telecommunications Commissioners, as noted

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried by a vote of:

AYES:	4
NOES:	0
ABSENT:	1 (Livengood)

5) Motion: appoint Gurdev Sandhu and Bill Ferguson to the Planning Commission

Motion/Second: Councilmember Polanski/Mayor Esteves

Motion failed by a vote of:

AYES:	2 (Esteves, Polanski)
NOES:	2 (Giordano, Gomez)
ABSENT:	1 (Livengood)

6) Motion: appoint Gurdev Sandhu to a full three-year term on the Planning Commission, to the seat recently held by Alex Galang, a term which will expire in December 2009

Motion/Second: Mayor Esteves /Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

ORDINANCE

8. Adopt Ordinance No. 262.4 This item was removed from the agenda, to be heard at a later date. Two ordinances were adopted on the Consent Calendar.

RESOLUTION

9. Resolution Approving the Memorandum of Understanding with the Mid-Management and Confidential Unit covering January 1, 2006 to Dec. 31, 2008 Human Resources Director Carmen Valdez reported that the City of Milpitas and employee representatives from the Mid-management and Confidential Unit met and conferred in good faith. Both agreed upon the Memorandum of Understanding presented for Council approval. The total cost for the new contract was approximately \$651,000.

Mayor Esteves asked about other employee groups' (ProTech and Police) agreement costs, the Human Resources Director provided estimates.

Councilmember Polanski announced she would vote no on the contract, staying consistent with her earlier votes on employee group MOUs. Also, she read aloud information from a recent news article regarding long term pension costs and local governments' needs for financing those over time.

Mayor Esteves stated he was very uncomfortable with the proposal and would vote no.

Motion: Adopt a resolution approving the Memorandum of Understanding with the Milpitas Mid-Management and Confidential Employees Group for the period January 1, 2006 through December 31, 2008

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion failed by a vote of: AYES: 2 (Giordano, Gomez)
NOES: 2 (Esteves, Polanski)
ABSENT: 1 (Livengood)

City Attorney Mattas noted that this item needed to go on a future agenda, after conferring in good faith with the employee group. The City Council had done so (conferred with the employees) and continued to do so with others. Council was thus obliged to vote on the proposed MOU at another Council meeting, when all members were present to vote.

Councilmember Polanski noted this was a duly noticed Council meeting. She stated the Councilmember who was absent was the longest serving member and knew when the meetings take place. All four other Councilmembers were present to vote.

Councilmember Giordano stated her view that there should be a resolution adopted as a group of five, where all five members should have a voice to speak. All minds should come to the meeting and she requested this matter on the next Council agenda.

Councilmember Gomez spoke on behalf of Vice Mayor Livengood, stating he was ill this evening.

Mayor Esteves disagreed with the process that the City Attorney advised, and wanted to stand by his vote already made.

*** 10. Resolution Requesting
VTA Allocation of Grant Funds**

This item was removed from the agenda.

BIDS AND CONTRACTS

Five items were adopted on the Consent Calendar.

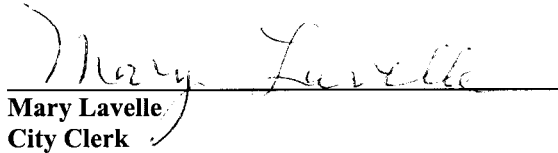
*** 12. Agreement between the
City and VTA for Landscaping**

This item was removed from the agenda.

ADJOURNMENT

Mayor Esteves adjourned the meeting at 8:04 PM, in memory of longtime resident Mr. Art Swenson.

**The foregoing minutes were approved by the Milpitas City Council as
submitted on January 16, 2007.**



Mary Lavelle
City Clerk